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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,643	03/08/2004	Percival C. Banks	Banks 0401	2231
7590		12/11/2007		
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Suite 110				
5855 Doyle Street				
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			EXAMINER	
			YOO, REGINA M	
			ART UNIT	PAPER NUMBER
			1797	
			MAIL DATE	DELIVERY MODE
			12/11/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/796,643

Applicant(s)

BANKS, PERCIVAL C.

Examiner

Regina Yoo

Art Unit

1797

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☒ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-6, 13 and 15.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
GLADYS JP CORCORAN  
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: The newly proposed amendments to claim 1, the specification, and the newly presented claim 15 all raise new issues that would require further consideration and/or search and also raise the issue of new matter.

It is noted that the amendment to claims 1-4 and 6 with respect to "cover ridge" and "vent ridge" would be entered if filed in a separate amendment for the purposes of appeal only.

Continuation of 11. does NOT place the application in condition for allowance because: the arguments are all directed to the proposed amendments which have not been entered as discussed above.

As to Applicant's argument that the reconstruction of Williams to meet the elements of claim 1 would involve inversion of the components of Williams, Examiner would disagree and clarify/point out that only configuration/orientation of the recesses/groves 54 and 77 will be inverted so as to be concave with respect to the interior surface and the entire assembly does not need to be re-engineered. Such inverted orientation of recesses would be an obvious alternate configuration to one of ordinary skill in the art and only the expected results would be attained (see MPEP 2144.04 VI).

As to Applicant's argument that "Williams teaches away from the two plates being able to compress a seal between them by teaching that they be maintained in a fixed, spaced apart relationship" and it would be no more than hindsight reconstruction to use the recesses to form a seal, Examiner finds that these arguments are not persuasive since the device is capable of being compressed together as it is seen in Figure 5 which discloses a configuration where the upper barrier plate member 70 is not fixedly attached to the side wall of the cover member C; thus, the upper barrier plate member 70 is capable of being tightened and compressed to the cover member C by the structure 80 to form a seal.

As to Applicant's argument that the component 24 disclosed in the reference of Lorenz is neither a seal ridge or a vent recess since it's flat and that gasket 52 is not wholly within any recess but sits on top of 24 where it is fully exposed, Examiner does not find this argument persuasive and point out that the region indicated by 24 in Figures 2-4, particularly Figure 4 for example where a filter 18 is employed, is a recess since it is at a lower plane with respect to 26 and to top of 22 where 16 are located and thus fully contains the gasket 52 since the gasket does not protrude beyond the recess (i.e. above the plane at 26). Moreover, with respect to the other features that Applicant argues Lorenz does not teach, those features have been taught by the reference of Williams as stated in the previous office action.